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(Original Signature of Member)

117TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To require the Commissioner of U.S. Customs and Border Protection to make certain determinations in enforcing the Jones Act, and for other purposes.

\_\_\_\_\_  
**IN THE HOUSE OF REPRESENTATIVES**

Mr. GARAMENDI introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To require the Commissioner of U.S. Customs and Border Protection to make certain determinations in enforcing the Jones Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Close Agency Loop-  
5       holes to the Jones Act”.

6       **SEC. 2. FINDINGS.**

7       Congress finds the following:

1           (1) In 1920, Congress enacted the Merchant  
2     Marine Act (chapters 121 and 551 of title 46,  
3     United States Code), commonly referred to as the  
4     “Jones Act”.

5           (2) In 1953, Congress enacted the Outer Conti-  
6     nental Shelf Lands Act (43 U.S.C. 1331 et seq.) ap-  
7     plying the Constitution, laws, and civil and political  
8     jurisdiction of the United States to the outer Conti-  
9     nental Shelf.

10          (3) In 2020, Congress enacted section 9503 of  
11     the William M. (Mac) Thornberry National Defense  
12     Authorization Act for Fiscal Year 2021 (Public Law  
13     116–283) affirming that application of the Constitu-  
14     tion, laws, and civil and political jurisdiction of the  
15     United States to the outer Continental Shelf also ap-  
16     plies to non-mineral energy resources and exploring  
17     for, developing, producing, transporting, or transmit-  
18     ting such resources.

19          (4) Therefore, the Jones Act prohibits the use  
20     of a non-Jones Act qualified vessel for the provision  
21     of any coastwise transportation of merchandise to or  
22     from a port of the United States (including terri-  
23     tories or possessions to which the coastwise laws  
24     apply) to any point on the outer Continental Shelf,

1 or between any two points on the outer Continental  
2 Shelf.

3 (5) U.S. Customs and Border Protection (here-  
4 inafter referred to as “CBP”) is responsible for in-  
5 terpreting and enforcing the Jones Act. CBP has  
6 issued ruling letters and other interpretative guid-  
7 ance to requesting parties that provide the descrip-  
8 tion of proposed activities.

9 (6) Unlike most federal agencies, CBP is re-  
10 quired by section 625(c) of the Tariff Act of 1930  
11 (19 U.S.C. 1625(c)) to follow its past interpretive  
12 guidance and treatments of “substantially identical  
13 transactions,” unless it institutes a public notice and  
14 comment process to modify or revoke that interpre-  
15 tative guidance. As a result, CBP and market par-  
16 ticipants treat as binding ruling letters and interpre-  
17 tative guidance in addressing whether and how the  
18 Jones Act applies in substantially identical factual  
19 situations.

20 (7) Thus, CBP’s ruling letters—even if legally  
21 incorrect—have substantial impacts: When CBP  
22 purports to authorize a foreign vessel to transport  
23 merchandise between coastwise points, unless or-  
24 dered by a federal court to rescind such ruling let-  
25 ters, CBP does not take enforcement action against

1       other foreign vessels engaging in substantially iden-  
2       tical transactions, and vessel operators accordingly  
3       rely on CBP’s past ruling letters and guidance  
4       issued to other parties.

5           (8) Over several decades, CBP has purported to  
6       create an array of exemptions from the prohibitions  
7       of the Jones Act for the benefit of foreign vessels.

8           (9) On December 11, 2019, CBP published  
9       Customs Bulletin and Decisions, Vol. 53, No. 45  
10      (hereinafter referred to as the “2019 Decision”) re-  
11      voking a handful of its interpretations, recognizing  
12      that the analyses employed therein were inconsistent  
13      with the Jones Act and original congressional intent,  
14      including by using statutory language “out of con-  
15      text,” having been superseded by amendments, or  
16      being predicated on CBP-created distinctions that  
17      had always been “irrelevant” under the Jones Act.

18          (10) However, the 2019 Decision still left in  
19      force many ruling letters inconsistent with the Jones  
20      Act and original congressional intent, espousing the  
21      same unlawful doctrines, revoked others that prop-  
22      erly interpreted the Jones Act, and created several  
23      new loopholes that purport to immunize much of the  
24      same foreign vessel activities that are now, and have  
25      always been, prohibited under the Jones Act.

1           (11) Thus, CBP has created invalid exemptions  
2           from the prohibition embodied in the Jones Act,  
3           using a variety of new and old doctrines inconsistent  
4           with original congressional intent. In 2014, the Su-  
5           preme Court of the United States found in *Utility*  
6           *Air Regulatory Group. v. Environmental Protection*  
7           *Agency* (573 U.S. 302, 328) that it is a “core ad-  
8           ministrative law principle that an agency may not  
9           rewrite clear statutory terms to suit its own sense of  
10          how the statute should operate”.

11          (12) These invalid, *ultra vires* doctrines, and  
12          their uses, include—

13                (A) an unlawfully broad interpretation of  
14                “vessel equipment” which conflicts with Con-  
15                gress’ statutory description of “merchandise,”  
16                and the explicit, limited statutory exemption;

17                (B) the “paid out not unladen” doctrine,  
18                which provides that pipe or cable laying oper-  
19                ations are not coastwise trade subject to the  
20                Jones Act – even when the pipe is laid between  
21                two coastwise points, and in spite of Congress’  
22                statutory prohibition against foreign vessels  
23                performing “any part of the transportation by  
24                water” of merchandise;

1 (C) the “paid out not unladen” doctrine is  
2 also used by foreign vessel operators to justify  
3 the transportation of merchandise attached to  
4 the paid out pipe or cable;

5 (D) the “lifting operations” exemption,  
6 which purports to permit self-propelled move-  
7 ments by a vessel when using a crane or like  
8 equipment to install or remove merchandise on  
9 or from offshore facilities or subsea infrastruc-  
10 ture;

11 (E) the “decommissioning activity” exemp-  
12 tion, which purports that merchandise trans-  
13 ported as a result of decommissioning – i.e., the  
14 restoration of the sea-floor and the water sur-  
15 face by plugging and abandoning the well and  
16 removing the installation and facility – is not  
17 subject to the Jones Act;

18 (F) the “offshore research vessel”  
19 misapplications, which improperly extends the  
20 exclusion for oceanographic or limnological re-  
21 search vessels to commercial research activities  
22 that directly support the exploration for, or de-  
23 velopment, production, transportation, or trans-  
24 mission of, resources, on the outer Continental  
25 Shelf; and

1 (G) the “pristine seabed” exemption,  
2 where CBP has purported to hold that Outer  
3 Continental Shelf Lands Act’s explicit applica-  
4 tion to the “subsoil and seabed” of the outer  
5 Continental Shelf does not include the “pristine  
6 seabed”.

7 (13) If a ruling letter is contrary to the stat-  
8 ute’s plain text and the expressed intent of Con-  
9 gress, or found unpersuasive by a Federal Court, it  
10 will be invalidated as arbitrary and capricious.

11 (14) Federal Courts have not squarely ad-  
12 dressed the interpretations contained in these CBP  
13 ruling letters and other guidance, and thus have  
14 never upheld these interpretations as valid and au-  
15 thoritative.

16 **SEC. 3. PRECLUDING EXEMPTIONS FROM JONES ACT RE-**  
17 **QUIREMENTS FOR CERTAIN FOREIGN VES-**  
18 **SELS.**

19 The Secretary may not provide any exemption from  
20 the requirements of chapters 121 and 551 of title 46,  
21 United States Code (commonly referred to as the “Jones  
22 Act”), to the owner of a foreign vessel engaging in com-  
23 mercial transportation services to directly support the ex-  
24 ploration for, or development, production, transportation,  
25 or transmission of, resources, including non-mineral en-

1 ergy resources, from a planning or leasing area designated  
2 by the Secretary of the Interior under the Outer Conti-  
3 nental Shelf Lands Act (43 U.S.C. 1331 et seq.).

4 **SEC. 4. OCEANOGRAPHIC RESEARCH VESSELS.**

5 (a) IN GENERAL.—In enforcing chapter 551 of title  
6 46, United States Code, the Secretary may not determine  
7 that a vessel engaging in commercial research activities  
8 to directly support the exploration for, or development,  
9 production, transportation, or transmission of, resources,  
10 including non-mineral energy resources, from a planning  
11 or leasing area designated by the Secretary of the Interior  
12 under the Outer Continental Shelf Lands Act (43 U.S.C.  
13 1331 et seq.) is not engaged in trade or commerce under  
14 such chapter.

15 (b) OCEANOGRAPHIC RESEARCH VESSEL CLARIFICA-  
16 TION.—Section 50503 of title 46, United States Code is  
17 amended by inserting “, except that any vessel engaging  
18 in commercial research activities to directly support the  
19 exploration for, or development, production, transpor-  
20 tation, or transmission of, resources, including non-min-  
21 eral energy resources, from a planning or leasing area des-  
22 ignated by the Secretary of the Interior under the Outer  
23 Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) may  
24 be determined to be engaged in trade or commerce under  
25 this section” after “trade or commerce”.



1 (c) DESIGNATION.—The Commandant of the Coast  
2 Guard shall deny any request from a foreign vessel to be  
3 designated as an oceanographic research vessel for any  
4 such vessel engaging in commercial research activities to  
5 directly support the exploration for, or development, pro-  
6 duction, transportation, or transmission of, resources, in-  
7 cluding non-mineral energy resources, from a planning or  
8 leasing area designated by the Secretary of the Interior  
9 under the Outer Continental Shelf Lands Act (43 U.S.C.  
10 1331 et seq.).

11 (d) REVOCATION OR MODIFICATION OF CERTAIN  
12 RULING LETTERS.—

13 (1) IN GENERAL.—The Secretary shall revoke  
14 or modify, as appropriate, the following head-  
15 quarters ruling letters:

16 (A) HQ H216579 (May 15, 2012).

17 (B) HQ H205655 (March 20, 2012).

18 (C) HQ 112830 (August 12, 1993).

19 (D) HQ 110364 (September 29, 1989).

20 (2) SUBSTANTIALLY IDENTICAL  
21 TRANSACTIONS.—The Secretary shall revoke or mod-  
22 ify, as appropriate, any treatments, including ruling  
23 letters, accorded by the Secretary to transactions  
24 that are substantially identical to the transactions

1 described in the ruling letters listed in paragraph  
2 (1).

3 (e) REPORT REQUIRED.—

4 (1) IN GENERAL.—Not later than 180 days  
5 after the date of enactment of this Act, the Sec-  
6 retary shall submit to the Committee on Transpor-  
7 tation and Infrastructure of the House of Represent-  
8 atives and the Committee on Commerce, Science,  
9 and Transportation of the Senate a report detailing  
10 the total number vessels known or estimated to oper-  
11 ate under section 50503 of title 46, United States  
12 Code, during each of the preceding 10 fiscal years.

13 (2) CONTENTS.—The report required under  
14 paragraph (1) shall include the following elements:

15 (A) The total number of foreign vessels  
16 known or estimated to operate as oceanographic  
17 research vessels during each of the preceding  
18 10 fiscal years.

19 (B) The total number of vessels docu-  
20 mented under the laws of the United States  
21 known or estimated to operate as oceanographic  
22 research vessels, or engage in activities similar  
23 to the work conducted by oceanographic re-  
24 search vessels, during each of the preceding 10  
25 fiscal years.

1 **SEC. 5. U.S. CUSTOMS AND BORDER PROTECTION RULINGS.**

2 (a) VESSEL EQUIPMENT.—

3 (1) IN GENERAL.—In enforcing chapter 551 of  
4 title 46, United States Code, the Secretary may not  
5 apply an interpretation of the terms “vessel equip-  
6 ment” or “equipment” that conflicts with the defini-  
7 tion of the term “merchandise” or sections 55105,  
8 55106, 55107, 55108, 55110, 55113, and 55115 of  
9 such title.

10 (2) REVOCATION OR MODIFICATION OF CER-  
11 TAIN RULING LETTERS.—

12 (A) IN GENERAL.—The Secretary shall re-  
13 voke or modify, as appropriate, any ruling let-  
14 ters that apply an incorrect interpretation of  
15 the terms “vessel equipment” or “equipment”  
16 as described in paragraph (1), including the fol-  
17 lowing headquarters ruling letters:

18 (i) HQ H032757 (July 28, 2008).

19 (ii) HQ H029417 (June 5, 2008).

20 (iii) HQ H004242 (December 22,  
21 2006).

22 (iv) HQ 116078 (February 11, 2004).

23 (v) HQ 115938 (April 1, 2003).

24 (vi) HQ 115771 (August 19, 2002).

25 (vii) HQ 115333 (April 27, 2001).

1 (viii) HQ 115487 (November 20,  
2 2001).

3 (ix) HQ 115381 (June 15, 2001).

4 (x) HQ 114435 (August 6, 1998).

5 (xi) HQ 114305 (March 31, 1998).

6 (xii) HQ 113841 (February 28,  
7 1997).

8 (xiii) HQ 113137 (June 27, 1994).

9 (xiv) HQ 112218 (July 22, 1992).

10 (xv) HQ 111889 (February 11,  
11 1992).

12 (xvi) HQ 111892 (September 16,  
13 1991).

14 (xvii) HQ 110402 (August 18, 1989).

15 (xviii) HQ 108223 (March 13, 1986).

16 (xix) HQ 105644 (June 7, 1982).

17 (xx) HQ 101925 (October 7, 1976).

18 (B) SUBSTANTIALLY IDENTICAL TRANS-  
19 ACTIONS.—The Secretary shall revoke or mod-  
20 ify, as appropriate, any treatments, including  
21 ruling letters, accorded by the Secretary to  
22 transactions that are substantially identical to  
23 the transactions described in the ruling letters  
24 listed in subparagraph (A).

25 (b) PAID OUT NOT UNLADEN.—

1           (1) IN GENERAL.—In enforcing chapter 551 of  
2           title 46, United States Code, the Secretary may not  
3           determine that pipe or cable laying operations, in-  
4           cluding the transportation of merchandise attached  
5           to such pipe or cable, are not subject to such chap-  
6           ter because the vessel pays out the pipe or cable to  
7           a coastwise point.

8           (2) REVOCATION OR MODIFICATION OF CER-  
9           TAIN RULING LETTERS.—

10           (A) IN GENERAL.—The Secretary shall re-  
11           voke or modify, as appropriate, any ruling let-  
12           ters that apply an incorrect determination with  
13           respect to pipe or cable laying operations de-  
14           scribed in paragraph (1), including the fol-  
15           lowing headquarters ruling letters:

- 16                   (i) HQ 115522 (December 3, 2001).  
17                   (ii) HQ 115487 (November 20, 2001).  
18                   (iii) HQ 115311 (May 10, 2001).  
19                   (iv) HQ 115333 (April 27, 2001).  
20                   (v) HQ 114435 (August 6, 1998).  
21                   (vi) HQ 114305 (March 31, 1998).  
22                   (vii) HQ 105644 (June 7, 1982).  
23                   (viii) HQ 101925 (October 7, 1976)  
24                   (also referred to as T.D. 78–387).

1 (B) SUBSTANTIALLY IDENTICAL TRANS-  
2 ACTIONS.—The Secretary shall revoke or mod-  
3 ify, as appropriate, any treatments, including  
4 ruling letters, accorded by the Secretary to  
5 transactions that are substantially identical to  
6 the transactions described in the ruling letters  
7 listed in subparagraph (A).

8 (c) LIFTING OPERATIONS.—

9 (1) IN GENERAL.—In enforcing chapter 551 of  
10 title 46, United States Code, the Secretary may not  
11 exempt lifting operations from the requirements of  
12 such chapter.

13 (2) REVOCATION OR MODIFICATION OF CER-  
14 TAIN AGENCY ACTIONS.—The Secretary shall—

15 (A) revoke or modify, as appropriate, any  
16 ruling letters that apply the exemption de-  
17 scribed in paragraph (1);

18 (B) modify the Customs Bulletin and Deci-  
19 sion issued on December 11, 2019, titled  
20 “Modification and revocation of ruling letters  
21 relating to CBP’s application of the Jones Act  
22 to the transportation of certain merchandise  
23 and equipment between coastwise points” (Cus-  
24 toms Bulletin and Decisions, Vol. 53, No. 45)  
25 to be consistent with paragraph (1); and

1 (C) revoke or modify, as appropriate, any  
2 other treatments, including ruling letters, ac-  
3 corded by the Secretary to transactions that are  
4 substantially identical to the transactions de-  
5 scribed in this paragraph.

6 (3) REINSTATEMENT OF CERTAIN RULING LET-  
7 TERS.—Upon revoking and modifying the agency ac-  
8 tions under paragraph (2), the Secretary shall rein-  
9 state the following headquarters ruling letters (popu-  
10 larly known as the “Koff rulings”):

11 (A) HQ H242466 (July 3, 2013).

12 (B) HQ H235242 (November 15, 2012).

13 (C) HQ H225102 (September 24, 2012).

14 (d) INSTALLATION ACTIVITIES.—

15 (1) IN GENERAL.—The Secretary shall revoke  
16 the following headquarters ruling letters in which  
17 the Secretary determined that certain installation  
18 activities do not involve transportation of merchan-  
19 dise between points in the United States for pur-  
20 poses of section 55102 of title 46, United States  
21 Code:

22 (A) HQ 115185 (November 20, 2000).

23 (B) HQ 115218 (November 30, 2000).

24 (C) HQ 113838 (February 25, 1997).

25 (D) HQ 108442 (August 13, 1986).

1           (2) SIMILAR RULING LETTERS.—The Secretary  
2       shall revoke or modify, as appropriate, any treat-  
3       ments, including ruling letters, accorded by the Sec-  
4       retary to transactions that are substantially identical  
5       to the transactions described in the ruling letters de-  
6       scribed in paragraph (1).

7       (e) DECOMMISSIONING.—

8           (1) IN GENERAL.—In enforcing chapter 551 of  
9       title 46, United States Code, the Secretary may not  
10      exempt merchandise transported as a result of de-  
11      commissioning an installation or facility on the outer  
12      Continental Shelf from the requirements of such  
13      chapter.

14          (2) REVOCATION OR MODIFICATION OF CER-  
15      TAIN RULING LETTERS.—The Secretary shall revoke  
16      or modify, as appropriate—

17            (A) any ruling letters that apply the ex-  
18            emption described in paragraph (1), including  
19            the headquarters ruling letter HQ H004242  
20            (December 22, 2006); and

21            (B) any treatments, including ruling let-  
22            ters, accorded by the Secretary to transactions  
23            that are substantially identical to the trans-  
24            actions described in the ruling letter described  
25            in subparagraph (A).



1 (f) SUBSOIL OR SEABED SAMPLES.—

2 (1) IN GENERAL.—In enforcing chapter 551 of  
3 title 46, United States Code, the Secretary may not  
4 determine that—

5 (A) subsoil or seabed samples are not mer-  
6 chandise for purposes of section 55102 of title  
7 46, United States Code; or

8 (B) taking subsoil or seabed samples from  
9 the seabed is not considered an installation or  
10 other device for purposes of section 4(a)(1) of  
11 the Outer Continental Shelf Lands Act (43  
12 U.S.C. 1333(a)(1)).

13 (2) REVOCATION OR MODIFICATION OF CER-  
14 TAIN RULING LETTERS.—

15 (A) IN GENERAL.—The Secretary shall re-  
16 voke or modify, as appropriate, any ruling let-  
17 ters that apply an incorrect determination de-  
18 scribed in paragraph (1), including the fol-  
19 lowing headquarters ruling letters:

20 (i) HQ H317289 (March 25, 2021).

21 (ii) HQ 115799 (September 30,  
22 2002).

23 (iii) HQ 116602 (January 30, 2006).

24 (iv) HQ 108442 (August 13, 1986).

1 (B) SUBSTANTIALLY IDENTICAL TRANS-  
2 ACTIONS.—The Secretary shall revoke or mod-  
3 ify, as appropriate, any treatments, including  
4 ruling letters, accorded by the Secretary to  
5 transactions that are substantially identical to  
6 the transactions described in the ruling letters  
7 listed in subparagraph (A).

8 (g) PRISTINE SEABED.—

9 (1) IN GENERAL.—In enforcing chapter 551 of  
10 title 46, United States Code, the Secretary may not  
11 determine that such chapter does not apply to—

12 (A) the pristine seabed of the outer Conti-  
13 nental Shelf; or

14 (B) articles or devices, including seismic  
15 nodes or rock, aggregate, or other scour protec-  
16 tion materials, either temporarily or perma-  
17 nently placed onto or embedded into the seabed  
18 on the outer Continental Shelf.

19 (2) ATTACHED ARTICLES.—In enforcing chap-  
20 ter 551 of title 46, United States Code, the Sec-  
21 retary shall determine that any articles or devices  
22 described in paragraph (1)(B) that are attached to  
23 the seabed are merchandise for the purposes of sec-  
24 tion 55102 of such title.

1           (3) REVOCATION OF CERTAIN RULING LET-  
2           TERS.—The Secretary shall revoke or modify, as ap-  
3           propriate, any ruling letters that apply an incorrect  
4           determination described in paragraph (1), including  
5           the following headquarters ruling letters:

6                   (A) HQ H317289 (March 25, 2021).

7                   (B) HQ 115799 (September 30, 2002).

8           (4) REINSTATEMENT OF RULING LETTER.—  
9           Upon revoking and modifying the agency actions  
10          under paragraph (3), the Secretary shall reinstate  
11          headquarters ruling letter HQ H309186 (January  
12          27, 2021).

13 **SEC. 6. PETITIONS BY DOMESTIC INTERESTED PARTIES.**

14          (a) IN GENERAL.—Chapter 551 of title 46, United  
15          States Code, is amended by adding at the end the fol-  
16          lowing:

17 **“§ 55124. Petitions by domestic interested parties**

18          “(a) REQUEST FOR INTERPRETIVE RULING.—The  
19          Secretary of Homeland Security shall, upon written re-  
20          quest by an interested party, furnish, within 60 days, an  
21          interpretive ruling regarding a non-coastwise qualified ves-  
22          sel’s activities and compliance with Federal laws in the  
23          internal waters of the United States, the territorial sea,  
24          and the waters of the outer Continental Shelf, including  
25          the vessel’s compliance with this chapter and section

1 50503. If the interested party believes that the conclusion  
2 of such interpretive ruling, or any other interpretive ruling  
3 regarding the interpretation, application, or enforcement  
4 of the coastwise laws, is incorrect, such party may file a  
5 petition with the Secretary setting forth the following:

6 “(1) Such party’s understanding of the factual  
7 scenario.

8 “(2) The outcome of the decision that such  
9 party believes to be proper in the provided factual  
10 scenario and the reasons supporting such party’s be-  
11 lief.

12 “(b) DETERMINATION ON PETITION.—If, after re-  
13 ceipt and consideration of a petition filed by such an inter-  
14 ested party, the Secretary determines that the conclusion  
15 reached in the contested letter is not correct, the Secretary  
16 shall determine the proper outcome and notify the peti-  
17 tioner of the Secretary’s determination within 60 days.

18 “(c) CONTEST BY PETITIONER.—If the Secretary de-  
19 termines that the contested interpretive ruling filed pursu-  
20 ant to subsection (a) is correct, the Secretary shall notify  
21 the petitioner within 30 days. If dissatisfied with the de-  
22 termination of the Secretary, the petitioner may file with  
23 the Secretary, not later than 30 days after the date of  
24 the notification, notice that it desires to contest the ruling.  
25 Upon receipt of notice from the petitioner, the Secretary

1 shall cause publication to be made within 7 days of the  
2 Secretary's determination as presented in the ruling letter.

3       “(d) REVIEW OF INTERPRETIVE RULING.—Not later  
4 than 90 days after the petitioner files the notice of a desire  
5 to contest a ruling under subparagraph (c), any interested  
6 party may commence an action in any district court of  
7 the United States, subject to the venue requirements of  
8 section 1391 of title 28, by filing concurrently a summons  
9 and complaint, each with the content and in the form,  
10 manner, and style prescribed by the rules of such court,  
11 contesting any legal conclusions of the Secretary.

12       “(e) RULEMAKING.—Not later than 60 days after the  
13 date of enactment of this section, the Secretary shall issue  
14 such regulations as are necessary to implement this sec-  
15 tion.

16       “(f) DEFINITIONS.—In this section:

17               “(1) COASTWISE QUALIFIED VESSEL.—The  
18 term ‘coastwise qualified vessel’ has the meaning  
19 given such term in section 55108(a).

20               “(2) INTERESTED PARTY.—The term ‘inter-  
21 ested party’ means—

22                       “(A) the owner or operator of a vessel en-  
23 gaged in coastwise trade;

24                       “(B) a manufacturer of coastwise qualified  
25 vessels;

1                   “(C) a certified union, recognized union, or  
2                   group of workers or mariners which is rep-  
3                   resentative of an industry engaged or employed  
4                   in—

5                   “(i) the coastwise trade; or

6                   “(ii) construction of coastwise quali-  
7                   fied vessels;

8                   “(D) a trade or business association of  
9                   which the majority of members are—

10                   “(i) owners or operators of vessels en-  
11                   gaged in coastwise trade;

12                   “(ii) manufacturers of coastwise quali-  
13                   fied vessels; or

14                   “(E) an association of which the majority  
15                   of members are persons described in para-  
16                   graphs (1) through (4).”.

17           (b) RULEMAKING.—Not later than 60 days after the  
18           date of enactment of this Act, the Secretary shall issue  
19           such regulations as are necessary to implement the  
20           amendments made by subsection (a).

21           (c) CLERICAL AMENDMENT.—The analysis for chap-  
22           ter 551 of title 46, United States Code, is amended by  
23           adding at the end the following:

          “55124. Petitions by domestic interested parties.”.

1   **SEC. 7. CONGRESSIONAL REVIEW ACT APPLICABILITY.**

2           (a)    IN    GENERAL.—Notwithstanding    section  
3   804(3)(A) of title 5, United States Code, for purposes of  
4   the application of chapter 8 of such title to a covered rul-  
5   ing letter, the term “rule” shall be read to include such  
6   a covered ruling letter.

7           (b) DEFINITION.—In this subsection, the term “cov-  
8   ered ruling letter” means a ruling letter issued after the  
9   date of enactment of this Act.

10   **SEC. 8. NOTIFICATION.**

11          (a) ADVANCE NOTIFICATION REQUIRED.—Prior to  
12   engaging in any activity or operations on the outer Conti-  
13   nental Shelf, the operator of a foreign vessel used in such  
14   activity or operations shall file with the Secretary a notifi-  
15   cation describing all activities and operations to be per-  
16   formed on the outer Continental Shelf and an identifica-  
17   tion of applicable ruling letters issued by the Secretary  
18   that have approved the use of a foreign vessel in a sub-  
19   stantially similar activity or operation.

20          (b) PUBLICATION OF NOTICES.—

21               (1) PUBLICATION.—The Secretary shall publish  
22   a notification under subsection (a) in the Customs  
23   Bulletin and Decisions within 14 days of receipt of  
24   such notification.

25               (2) CONFIDENTIAL INFORMATION.—The Sec-  
26   retary shall redact any information exempt from dis-

1 closure under section 552 of title 5, United States  
2 Code, in a notification published under paragraph  
3 (1).

4 **SEC. 9. PUBLICATION OF FINES AND PENALTIES.**

5 (a) IN GENERAL.—Section 55102 of title 46, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

8 “(d) PUBLICATION OF PENALTY.—

9 “(1) IN GENERAL.—Not later than 14 days  
10 after the issuance of a pre-penalty notice or a pen-  
11 alty, including a settlement, under subsection (c),  
12 the Secretary of Homeland Security shall publish  
13 such pre-penalty notice or a notification of such pen-  
14 alty in the Customs Bulletin and Decisions to the  
15 party impacted by the penalty.

16 “(2) CONTENTS.—A pre-penalty notice or pen-  
17 alty notification published under paragraph (1) shall  
18 include—

19 “(A) the name and the International Mari-  
20 time Organization identification number of the  
21 vessel that is the subject of the penalty;

22 “(B) the name of the owner of the vessel  
23 that is the subject of the penalty;

24 “(C) the amount of the fine or value of  
25 merchandise seized; and



1 “(D) a summary of the alleged misconduct  
2 and justification for imposing a penalty.”.

3 (b) RULEMAKING.—Not later than 90 days after the  
4 date of enactment of this Act, the Secretary shall issue  
5 such regulations as are necessary to implement the  
6 amendments made by subsection (a), including—

7 (1) regulations regarding the information to be  
8 contained in a penalty notification under section  
9 55102(d) of title 46, United States Code (as amend-  
10 ed by such subsection); and

11 (2) any changes to existing regulations relating  
12 to penalties issued by the Secretary.

13 **SEC. 10. REPORT ON ENFORCEMENT OF COASTWISE LAWS.**

14 The Commandant of the Coast Guard shall submit  
15 to Congress a report describing any changes to the en-  
16 forcement of chapters 121 and 551 of title 46, United  
17 States Code, as a result of the amendments to section  
18 4(a)(1) of the Outer Continental Shelf Lands Act (43  
19 U.S.C. 1333(a)(1)) made by section 9503 of the William  
20 M. (Mac) Thornberry National Defense Authorization Act  
21 for Fiscal Year 2021 (Public Law 116–283).

22 **SEC. 11. RULES OF CONSTRUCTION.**

23 (a) OUTER CONTINENTAL SHELF LANDS ACT.—  
24 Nothing in this Act may be construed to nullify or super-  
25 sede any other provision of law relating to the outer Conti-

1 nental Shelf (as such term is defined in section 2 of the  
2 Outer Continental Shelf Lands Act (43 U.S.C. 1331)).

3 (b) RULING LETTERS.—Nothing in this Act may be  
4 construed as congressional validation of a ruling letter, in-  
5 terpretative guidance, doctrine, or other action relating to  
6 the enforcement of chapters 121 and 551 of title 46,  
7 United States Code (commonly referred to as the “Jones  
8 Act”) issued by the Secretary.

9 **SEC. 12. DEFINITIONS.**

10 In this Act:

11 (1) LIFTING OPERATIONS.—The term “lifting  
12 operations” means self-propelled movements by a  
13 vessel when using a crane, or other similar equip-  
14 ment, to install or remove merchandise on or from  
15 offshore facilities or subsea infrastructure.

16 (2) MERCHANDISE.—The term “merchandise”  
17 has the meaning given such term in section  
18 55102(a) of title 46, United States Code.

19 (3) OCEANOGRAPHIC RESEARCH VESSEL.—The  
20 term “oceanographic research vessel” has the mean-  
21 ing given such term in section 2101 of title 46,  
22 United States Code.

23 (4) OUTER CONTINENTAL SHELF.—The term  
24 “outer Continental Shelf” has the meaning given

1       such term in section 2 of the Outer Continental  
2       Shelf Lands Act (43 U.S.C. 1331).

3           (5) RULING LETTER.—The term “ruling letter”  
4       means any ruling letter or headquarters ruling letter  
5       relating to the enforcement of chapters 121 and 551  
6       of title 46, United States Code (commonly referred  
7       to as the “Jones Act”), issued by the Commissioner  
8       of U.S. Customs and Border Protection pursuant to  
9       sections 502(a) or 625 of the Tariff Act of 1930 (19  
10      U.S.C. 1502(a) and 1625).

11          (6) SECRETARY.—The term “Secretary” means  
12      the Secretary of Homeland Security, acting through  
13      the Commissioner of U.S. Customs and Border Pro-  
14      tection.